IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.O.C.P. No.704 of 2005
Date of Decision:- 12.12.2006

Jit Singh ....Petitioner(s)

through
Mr.D.N.Ganeriwala, Advocate

vs.

Balwant Singh & ors. ....Respondent(s)

through
Mr.Yogesh Goyal, Adv.for Nos.4 & 7.
Mr.D.D.Sharma, Advocate for No.5.

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

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SURYA KANT, J.

This contempt petition has been filed, *inter alia,* alleging wilful and deliberate breach of the interim order dated August 19, 1996 passed by this Court in R.S.A.No.2080 of 1996. Vide the said order, notice was issued to the respondent in C.M.No.3364-C of 1996 for 10.10.1996 and "till then, the respondents were directed not to alienate the suit property."

Thereafter the above-stated regular second appeal was admitted vide order dated 10.1.1997 and at that time the interim order was passed to the effect that "the respondents shall not dispossess the appellant without following the due process of law."

Alleging that in violation of the interim order dated 19.8.1996, respondents No.1 to 3 have sold the subject land by way of two sale deeds dated 29.11.2004 in favour of respondent No.7 (Gurdeep Singh son of Jagtar Singh), this contempt petition has been filed.

In response to the show cause notice, reply/affidavits have been filed by respondents No.1 to 3, 5 and 7. Respondents No.1 to 3 have taken the plea that the interim order dated 19.8.1996 was operative till 10.10.1996

only and, thereafter it was never extended. Respondent No.7 has taken the plea of being a bona fide purchaser. The respondents have also referred to the interim order dated 10.1.1997 passed by this Court, while admitting the appeal, in order to contend that the earlier interim order dated 19.8.1996 was later on modified by this Court. In sum and substance, their plea is that there was no order prohibiting them from alienating the subject property.

After hearing learned counsel for the parties and having regard to the debatable issues involved in this petition in terms whereof, it is too difficult to hold that respondents No.1 to 3 have wilfully and deliberately violated an interim order of this Court and at the same time in order to protect the petitioner's right involved in the pending regular second appeal, this petition is disposed of with the following directions:-

(i) there shall be no further alienation of the subject property till R.S.A.No.2080 of 1986 is decided;

(ii) the sale deeds dated 29.11.2004 which respondent Nos.1 to 3 have already executed in favour of respondent No.7, are to be governed by the well established doctrine of *lis pendens* .

Resultantly, there shall be no plea of bona fide purchaser available to respondent No.7 at any subsequent stage. In other words, if the petitioner succeeds in regular second appeal, he will not be deprived of the fruits of the decree passed in his favour on the pretext that respondent No.7 is a bona fide purchaser of the subject property.

Rule discharged.

December 12, 2006 **(SURYA KANT)**
poonam **JUDGE**